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GROUP 3600

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/044,430
Filing Date: January 11, 2002
Appellant(s): DAVIS, RICHARD L.

Brian W. Oaks
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/22/2007 appealing from the Office action mailed 02/26/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals which will directly affect or be

directly affected by or have any bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the issues in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of invention is contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the issues in the brief is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the appendix to the brief is correct.

(8) Evidence Relied Upon

LI, et al   US Pub. No. 2003/0004850 A1

SCOTT et al   US Pub. No. 2004/0073507 A1

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
       obviousness or nonobviousness.

Claims 1-4, 6-20,23-33,36-42,44 and 45 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Li, US Pub. No. 2003/0004850 in view of Scott, US Pub. No.

2004/0073507.

Re Claim 1: Li discloses a method of management for procurement bidding comprising

the steps of:

receiving a request for quote including requirement information from a buyer for a

predetermined transaction (Li, Fig. 2; [0004][0057]" buyer providing an RFQ to the

server 12(step 30). The RFQ includes a detailed specification of what the buyer intends

to purchase, together with whatever other transaction terms would be required by the

buyer in a prospective transaction with the supplier.");

packaging the requirement information into a bid/auction presentation for the

predetermined transaction, wherein the packaging comprises generating a bid/auction

presentation in a standardized format including at least one of descriptions,

specifications, technical parameters, deadlines, and static and interactive graphical

renderings with respect to the predetermined transaction (Li, Fig. 2; [0057] "The data in

the RFQ thus defines a set of buyer constraints.... These buyer constraints include

those that must be made known to the suppliers in order for the suppliers to formulate a

bid");

selecting a plurality of sellers to each respectively provide at least one competitive bid

for the predetermined transaction (Li, [0059] "The auction management software18

executing at the server 12 opens the auction by publishing the details of the RFQ to

selected suppliers at the time specified by the buyer (step 32).);

displaying the bid/auction presentation for inspection to the plurality of sellers (Li, [0059]

"The auction management software18 executing at the server 12 opens the auction by

publishing the details of the RFQ to selected suppliers at the time specified by the buyer

(step 32).); and

moderating a bid/auction for a predetermined interval to enable the plurality of sellers to

submit a plurality of competitive bids (Li, [0058][0059]"*During the course of an auction*

interval specified by the buyer, one or more suppliers respond to the RFQ by submitting

bids"[0061][0121]);

Li fails to explicitly disclose a method of management for procurement bidding

comprising the steps of:

presenting bid results to the buyer for selection of winning bid from among the sellers.

Scott discloses a method of management for procurement bidding comprising the steps of:

presenting bid results to the buyer for selection of winning bid from among the sellers (Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning bidder; Fig. 2B, [0059] "In block 244, results of the auction are tabulated, and the GCL, buyer, or both determine from which supplier orders are to be filled.").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Li by adopting the teachings of Scott to provide a method of management for procurement bidding further comprising the steps of: presenting bid results to the buyer for selection of winning bid from among the sellers.

One would have been motivated to aid in the buyer's decision making by presenting all the results because a user-friendly presentation improves customer goodwill and makes for a more efficient and streamlined processing.

Re Claim 17: Li discloses a web-based method of management for procurement bidding comprising the steps of (Li, Figs. 6, 8-17,19-28 e.g., web-pages, "Microsoft Internet Explorer"):

receiving requirement information from a buyer for a predetermined transaction (Li, Fig. 2; [0004][0057]" buyer providing an RFQ to the server 12(step 30). The RFQ includes a detailed specification of what the buyer intends to purchase, together with whatever

other transaction terms would be required by the buyer in a prospective transaction with

the supplier.");

packaging the requirement information into a bid/auction presentation for the

predetermined transaction, wherein the packaging comprises generating a bid/auction

presentation in a standardized format including at least one of descriptions,

specifications, technical parameters, deadlines, and static and interactive graphical

renderings with respect to the predetermined transaction (Li, Fig. 2; [0057] "The data in

the RFQ thus defines a set of buyer constraints.... These buyer constraints include

those that must be made known to the suppliers in order for the suppliers to formulate a

bid");

electronically displaying the requirement information on a web page as a bid/auction

presentation for inspection by a plurality of sellers (Li, [0059] "The auction management

software18 executing at the server 12 opens the auction by *publishing the details of the*

RFQ to selected suppliers at the time specified by the buyer (step 32).");

utilizing an electronic interface to moderate a bid/auction based on the bid/auction

presentation for a predetermined interval (Li, [0058][0059]"*During the course of an*

auction interval specified by the buyer, one or more suppliers respond to the RFQ by

submitting bids"[0061][0121]); and

electronically enabling the plurality of sellers to input a plurality of competitive bids on

the bid/auction presentation into a web page (Li, [0058][0059]"During the course of an

auction interval specified by the buyer, *one or more suppliers respond to the RFQ by*

*submitting bid*s"[0061][0121].

Li fails to explicitly disclose a web-based method of management for procurement bidding comprising the steps of:

electronically presenting bid results to the buyer for selection of winning bid from among the sellers.

Scott discloses a web-based method of management for procurement bidding comprising the steps of:

electronically presenting bid results to the buyer for selection of winning bid from among the sellers (Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning bidder; Fig. 2B, [0059] "In block 244, results of the auction are tabulated, and the GCL, buyer, or both determine from which supplier orders are to be filled.").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Li by adopting the teachings of Scott to provide a web-based method of management for procurement bidding further comprising the steps of: electronically presenting bid results to the buyer for selection of winning bid from among the sellers (Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning bidder; Fig. 2B, [0059] "In block 244, results of the auction are tabulated, and the GCL, buyer, or both determine from which supplier orders are to be filled.").

One would have been motivated to aid in the buyer's decision making by presenting all the results because a user-friendly presentation improves customer goodwill and makes for a more efficient and streamlined processing.

Re Claim 30: Li discloses software for management of a network-based

procurement process, the software embodied in a computer-readable medium and

operable when executed on a computer to:

receive requirement information from a buyer for a predetermined transaction (Li, Fig. 2;

[0004][0057]" buyer providing an RFQ to the server 12(step 30). The RFQ includes a

detailed specification of what the buyer intends to purchase, together with whatever

other transaction terms would be required by the buyer in a prospective transaction with

the supplier.");

package the requirement information into a bid/auction presentation in a standardized

format including at least one of descriptions, specifications, technical parameters,

deadlines, and static and interactive graphical renderings with respect to the

predetermined transaction (Li, Fig. 2; [0057] "The data in the RFQ thus defines a set of

buyer constraints.... These buyer constraints include those that must be made known

to the suppliers in order for the suppliers to formulate a bid");

display requirement information from a buyer as bid/auction presentation for inspection

by a plurality of sellers (Li, [0059] "The auction management software18 executing at

the server 12 opens the auction by *publishing the details of the RFQ* to selected

suppliers at the time specified by the buyer (step 32).);

moderate a bid/auction based on the bid/auction presentation for a predetermined

auction interval (Li, [0058][0059]"*During the course of an auction interval specified by

the buyer*, one or more suppliers respond to the RFQ by submitting bids"[0061][0121]);

and

enable the plurality of sellers to submit a plurality of competitive bids on the auction

presentation (Li, [0058][0059]"During the course of an auction interval specified by the

buyer, *one or more suppliers respond to the RFQ by submitting bids*"[0061][0121]).

Li fails to explicitly disclose software for management of a network-based

procurement process, the software embodied in a computer-readable medium and

operable when executed on a computer to: present bid results to the buyer for selection

of winning bid from among the sellers.

Scott discloses software for management of a network-based procurement

process, the software embodied in a computer-readable medium and operable when

executed on a computer to: present bid results to the buyer for selection of winning bid

from among the sellers (Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning

supplier/winning bidder; Fig. 2B, [0059] "In block 244, results of the auction are

tabulated, and the GCL, buyer, or both determine from which supplier orders are to be

filled.").

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the teachings Li by adopting the teachings of Scott to

provide software for management of a network-based procurement process, the

software embodied in a computer-readable medium and further operable when

executed on a computer to: present bid results to the buyer for selection of winning bid

from among the sellers.

One would have been motivated to aid in the buyer's decision making by presenting all the results because a user-friendly presentation improves customer goodwill and makes for a more efficient and streamlined processing.

Re Claims 2: Li discloses a method wherein the predetermined transaction comprises at least one of goods and services to be provided from at least one of the sellers to the buyer (Li, [0011]"Requisitions can include a purchase of one or more items, the performance of one or more services" [0013[0097]).

Re Claim 3: Li discloses a method wherein the goods and services are selected from a group including at least one of: products to be manufactured, non-resale retail items, shipping services, storage/warehousing services, general construction services, security services, fixtures, displays, design, installation, merchandising services, graphics products and services, supplies, building materials (Li, [0011]"Requisitions can include a purchase of one or more items, the performance of one or more services" [0013[0097]).

Re Claim 4: Li discloses a method wherein the step of receiving required information comprises receiving information on at least one of specifications, technical parameters, and deadlines with respect to the predetermined transaction (Li, Fig. 2; [0004][0057]" buyer providing an RFQ to the server 12(step 30). The RFQ includes a detailed specification of what the buyer intends to purchase, together with whatever other transaction terms would be required by the buyer in a prospective transaction with the supplier.").

Re Claim 6: Li discloses a method comprising the step of selecting a plurality of sellers (Li, [0059] "The auction management software18 executing at the server 12 opens the

auction by publishing the details of the RFQ to *selected suppliers* at the time specified by the buyer (step 32).). Li fails to explicitly disclose method wherein the step of selecting a plurality of sellers comprises selecting sellers from an appropriate category of a membership database of sellers so as to match buyer requirement information with appropriate seller expertise. Scott discloses wherein the step of selecting a plurality of sellers comprises selecting sellers from an appropriate category of a membership database of sellers so as to match buyer requirement information with appropriate seller expertise (Scott, abstract, [0041]"the buyers and one or more pole personnel identify suppliers for participating in the auction. The most obvious sellers are those that have already been 'qualified' to supply the items being auctioned."[0043][0056][0078][0092]). It would have been obvious t one of ordinary skill in the art at the time of the invention to combine the teachings of Li and Scott to provide a method wherein the step of selecting a plurality of sellers comprises selecting sellers from an appropriate category of a membership database of sellers so as to match buyer requirement information with appropriate seller expertise. As suggested by Scott, one would be motivated to have a supplier capable of supplying the items needed by the organization.

Re Claim 7: Li discloses a method wherein, following the step of displaying the bid/auction presentation, a step is provided of soliciting feedback so as to enable the sellers to provide comments with at least one of requesting more information and proposing alternatives to the requirement information specified in the auction presentation (Li, [0060] "the buyer now has an opportunity to negotiate with individual suppliers.").

Re Claim 8: Li discloses a method wherein the comments obtained from the step of soliciting feedback are made available to all of the respective plurality of sellers, and wherein the step of soliciting feedback is repeated to enable the sellers to provide further comments on each other's comments (Li, [0060] "the buyer now has an opportunity to negotiate with individual suppliers.").

Re Claim 9: Li discloses a method wherein, prior to the step of moderating an auction, a step is provided for soliciting a closed bid from each of the plurality of sellers, wherein the solicited closed bids establish an opening auction bidding level prior to the predetermined auction interval (Li, [0102][0112][0113]).

Re Claim 10: Li fails to explicitly disclose a method wherein, prior to the step of moderating an auction, a step is provided for establishing a predetermined bid decrement to be used by the plurality of sellers in submitting competitive bids. Official Notice is taken that it is old and well-known to change an auction formats depending on the types of products or services, the number of participants, and the objectives of the auction (e.g., auctions for procurement, online auctions etc.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Li to provide a method wherein, prior to the step of moderating an auction, a step is provided for establishing a predetermined bid decrement to be used by the plurality of sellers in submitting competitive bids. One would have been motivated by profits, the desire to obtain the products services and the most desirable price or to have a pool of bidders with a positive track record of performance.

Re Claim 11: Li fails to explicitly disclose a method wherein the step of presenting bid results comprises presenting at least one report selected from at least one of: bid/auction history, seller input, and seller comment history. Scott discloses a method wherein the step of presenting bid results comprises presenting at least one report selected from at least one of: bid/auction history, seller input, and seller comment history (Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning bidder; Fig. 2B, [0059] "In block 244, results of the auction are tabulated, and the GCL, buyer, or both determine from which supplier orders are to be filled."). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Li and Scott to provide a method wherein the step of presenting bid results comprises presenting at least one report selected from at least one of: bid/auction history, seller input, and seller comment history. One would have been motivated to aid in the buyer's decision making by presenting all the results.

Re Claim 12: Li discloses a method wherein the steps of displaying the bid/auction presentation for inspection to the plurality of sellers (Li, [0059] "The auction management software18 executing at the server 12 opens the auction by *publishing the details of the RFQ* to selected suppliers at the time specified by the buyer (step 32).") and moderating a bid/auction for a predetermined auction interval are performed electronically over a network (Li, [0058][0059]"During the course of an auction interval specified by the buyer, one or more suppliers respond to the RFQ by submitting bids"[0061][0121]).

Re Claim 13: Li discloses a method wherein the steps of displaying the bid/auction for

inspection to a plurality of sellers (Li, [0059] "The auction management software18

executing at the server 12 opens the auction by *publishing the details of the RFQ* to

selected suppliers at the time specified by the buyer (step 32).") and moderating a

bid/auction for a predetermined auction interval are performed electronically over an

Internet connection (Li, [0058][0059]"During the course of an auction interval specified

by the buyer, one or more suppliers respond to the RFQ by submitting

bids"[0061][0121]).

Re Claim 14: Li discloses a method wherein the step of receiving a request for quote

including requirement information from a buyer (Li, Fig. 2; [0004][0057]" buyer providing

an RFQ to the server 12(step 30). The RFQ includes a detailed specification of what

the buyer intends to purchase, together with whatever other transaction terms would be

required by the buyer in a prospective transaction with the supplier."). Li fails to

explicitly disclose a method wherein the step of presenting bid results to the buyer are

performed electronically over a network. Scott discloses a method wherein the step of

presenting bid results to the buyer are performed electronically over a network (Scott,

abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning bidder; Fig. 2B,

[0059] "In block 244, results of the auction are tabulated, and the GCL, buyer, or both

determine from which supplier orders are to be filled."). It would have been obvious to

one of ordinary skill in the art at the time of the invention to combine the teachings of Li

and Scott to provide wherein the step of receiving a request for quote including

requirement information from a buyer and the step of presenting bid results to the buyer

are performed electronically over a network. One would have been motivated to aid in the buyer's decision making by presenting all the results.

Re Claim 16: Li fails to explicitly disclose a method wherein the step of selecting a plurality of sellers comprises selecting sellers from an electronically retrievable database of sellers. Scott discloses a method wherein the step of selecting a plurality of sellers comprises selecting sellers from an electronically retrievable database of sellers (Scott, abstract, [0041]"the buyers and one or more pole personnel identify suppliers for participating in the auction. The most obvious sellers are those that have already been 'qualified' to supply the items being auctioned."[0043][0056][0078][0092]). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Li and Scott to provide a method wherein the step of selecting a plurality of sellers comprises selecting sellers from an electronically retrievable database of sellers. As suggested by Scott, one would be motivated to have a supplier capable of supplying the items needed by the organization.

Re Claims 18 and 31: Claims 18 and 31 contain features or limitations recited in Claim 2, therefore they are rejected under the same rationale.

Re Claims 19 and 32: Claims 19 and 32 contain features or limitations recited in Claim 3, therefore they are rejected under the same rationale.

Re Claims 20 and 33: Claims 20 and 33 contain features or limitations recited in Claim 4, therefore they are rejected under the same rationale.

Re Claims 23,24, 36 and 37: Claims 23,24, 36 and 37 contain features or limitations recited in Claim 6, therefore they are rejected under the same rationale. .

Re Claim 25 and 38: Claims 25 and 38 contain features or limitations recited in Claim

7, therefore they are rejected under the same rationale.

Re Claims 26 and 39: Claims 26 and 39 contain features or limitations recited in Claim

8, therefore they are rejected under the same rationale.

Re Claims 27 and 40: Claims 27 and 40 contain features or limitations recited in Claim

9, therefore they are rejected under the same rationale.

Re Claim 28 and 41: Claims 28 and 41 contain features or limitations recited in Claim

10, therefore they are rejected under the same rationale.

Re Claim 29 and 42: Claims 29 and 42 contain features or limitations recited in Claim

11, therefore they are rejected under the same rationale.

Re Claim 44: Li discloses a method of management for procurement bidding

comprising the steps of:

receiving a request for quote including requirement information from a buyer for a

predetermined transaction (Li, Fig. 2; [0004][0057]" buyer providing an RFQ to the

server 12(step 30). The RFQ includes a detailed specification of what the buyer intends

to purchase, together with whatever other transaction terms would be required by the

buyer in a prospective transaction with the supplier.");

packaging the requirement information into a bid/auction presentation for the

predetermined transaction (Li, Fig. 2; [0057] "The data in the RFQ thus defines a set of

buyer constraints.... These buyer constraints include those that must be made known

to the suppliers in order for the suppliers to formulate a bid");

selecting a plurality of sellers to each respectively provide at least one competitive

bid for the predetermined transaction (Li, [0059] "The auction management software18

executing at the server 12 opens the auction by publishing the details of the RFQ to

selected suppliers at the time specified by the buyer (step 32).);

displaying the bid/auction for inspection to the plurality of sellers (Li, [0059] "The auction ·

management software18 executing at the server 12 opens the auction by *publishing the*

details of the RFQ to selected suppliers at the time specified by the buyer (step 32); and

moderating a bid/auction for a predetermined interval to enable the plurality of sellers to

submit a plurality of competitive bids (Li, [0058][0059]"*During the course of an auction*

interval specified by the buyer, one or more suppliers respond to the RFQ by submitting

bids"[0061][0121]).

Li fails to explicitly disclose a method of management for procurement bidding

comprising the steps of:

wherein the sellers are selected from an appropriate category of a membership

database of sellers so as to match buyer requirement information with appropriate

seller expertise;; and

presenting bid results to the buyer for selection of winning bid from among the sellers.

Scott discloses a method of management for procurement bidding comprising the

steps of:

wherein the sellers are selected from an appropriate category of a membership

database of sellers so as to match buyer requirement information with appropriate

seller expertise (Scott, abstract, [0041]"the buyers and one or more pole personnel

identify suppliers for participating in the auction. The most obvious sellers are those

that have already been 'qualified' to supply the items being

auctioned."[0043][0056][0078][0092]); and

presenting bid results to the buyer for selection of winning bid from among the sellers

(Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning bidder; Fig.

2B, [0059] "In block 244, results of the auction are tabulated, and the GCL, buyer, or

both determine from which supplier orders are to be filled.").

It would have been obvious to one of ordinary skill in the art at the time the

inventions was made to modify the teachings of Li by adopting the teachings of Scott to

provide a method of management for procurement bidding comprising the steps of:

wherein the sellers are selected from an appropriate category of a membership

database of sellers so as to match buyer requirement information with appropriate

seller expertise; and presenting bid results to the buyer for selection of winning bid from

among the sellers.

One would have been motivated to aid in the buyer's decision making by

presenting all the results because a user-friendly presentation improves customer

goodwill and makes for a more efficient and streamlined processing.

Re Claim 45: Li discloses a method of management for procurement bidding

comprising the steps of:

receiving a request for quote including requirement information from a buyer for a

predetermined transaction (Li, Fig. 2; [0004][0057]" buyer providing an RFQ to the

server 12(step 30). The RFQ includes a detailed specification of what the buyer intends

to purchase, together with whatever other transaction terms would be required by the

buyer in a prospective transaction with the supplier.");

packaging the requirement information into a bid/auction presentation for the

predetermined transaction (Li, Fig. 2; [0057] "The data in the RFQ thus defines a set of

buyer constraints.... These buyer constraints include those that must be made known

to the suppliers in order for the suppliers to formulate a bid");

selecting a plurality of sellers to each respectively provide at least one competitive bid

for the predetermined transaction (Li, [0059] "The auction management software18

executing at the server 12 opens the auction by publishing the details of the RFQ to

selected suppliers at the time specified by the buyer (step 32).);

displaying the bid/auction for inspection to the plurality of sellers (Li, [0059] "The auction

management software18 executing at the server 12 opens the auction by *publishing the*

details of the RFQ to selected suppliers at the time specified by the buyer (step 32).);

soliciting feedback so as to enable the sellers to provide comments with at least one of

requesting more information and proposing alternatives to the requirement information

specified in the auction presentation, wherein the comments obtained are made

available to all of the respective plurality of sellers, and wherein the step of soliciting

feedback is repeated to enable the sellers to provide further comments on each other's

comments (Li, [0060] "the buyer now has an opportunity to negotiate with individual

suppliers."); and

moderating a bid/auction for a predetermined interval to enable the plurality of sellers

to submit a plurality of competitive bids (Li, [0058][0059]"*During the course of an auction*

interval specified by the buyer, one or more suppliers respond to the RFQ by submitting

bids"[0061][0121]).

Li fails to explicitly disclose a method of management for procurement bidding

comprising the steps of: presenting bid results to the buyer for selection of winning bid

from among the sellers.

Scott discloses a method of management for procurement bidding comprising the

steps of: presenting bid results to the buyer for selection of winning bid from among the

sellers (Scott, abstract, Fig. 2B, [0049][0052][0095] refs. winning supplier/winning

bidder; Fig. 2B, [0059] "In block 244, results of the auction are tabulated, and the GCL,

buyer, or both determine from which supplier orders are to be filled.").

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the teachings of Li by adopting the teachings of Scott to

provide a method further comprising the steps of: presenting bid results to the buyer for

selection of winning bid from among the sellers.

One would have been motivated to aid in the buyer's decision making by

presenting all the results because a user-friendly presentation improves customer

goodwill and makes for a more efficient and streamlined processing.

(10) Response to Argument

103 Obviousness

<u>Li, US Pub. No. 2003/0004850 and Scott, US Pub. No. 2004/0073507 are Analogous</u>

<u>Art</u>

It has been held that a prior art reference must either be in the field of applicant's

endeavor or, if not, then be reasonably pertinent to the particular problem with which the

applicant was concerned, in order to be relied upon as a basis for rejection of the

claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir.

1992).

Applicants Specification recites:

**The present invention is directed to the field of procurement of goods and
services.** In acquiring business to business goods and services, i.e. display
fixtures, shipping services, and any other of a wide range of goods and services
required in doing business, much time and effort must be spent in communicating
with suppliers to obtain product information and competitive bids. This adds
considerable overhead to the cost of doing business. These problems can be
especially significant for conventional "bricks and mortar" retailers, and can
thereby diminish competitiveness. **It has thus been difficult for business
buyers to make connections with sellers of goods and services who are
able to provide the most suitable and economic services to satisfy the
needs of the business, resulting in much inefficiency.**

This situation also creates difficulties for the suppliers themselves, since an
element of guesswork and luck can be involved in connecting with the customers
desiring to procure their products and services. As with the buyer businesses, the
seller businesses expend considerable time and effort to locate customers for
their goods and services, which adds to the cost of doing business. **It has
therefore also been difficult for the sellers of goods and services to make
connections with suitable customers, resulting in further inefficiency.**

(Applicant's Specification, Background of the Invention, pg. 1)

a) <u>Field of Endeavor</u>- Applicant's specification provides that the invention is in

the field of procurement of goods and services. Both Li and Scott are in the same field

of endeavor as the claimed invention. Li and Scott are drawn to electronic auction

systems (particularly electronic reverse auction systems). In the electronic auction

systems of Li and Scott, buyers provide a plurality of suppliers with requests for

quotations (RFQs) regarding the procurement of goods and/or services. In response,

suppliers may place competitive bids for fulfillment of the RFQs. (As an example see Li,

[0004] [0005] [0006]; and Scott, abstract, [0057] [0058] [0059] [0060])

   b) <u>Problem to be solved</u>- Applicant's invention attempts to resolve the problems

of developing an efficient way to provide buyers with suitable sellers and sellers with

suitable buyers. Both Li and Scott address these problems. In Li, RFQs are provided to

selected suppliers invited to bid by the buyer. The selected suppliers may respond to

the RFQ by submitting bids. Supplier bids are forwarded to the buyer and the buyer

may then enter negotiations with the suppliers. The buyer selects the bid(s)

representing the optimal award. In Scott, RFQs are provided to qualified or approved

suppliers. The qualified or approved suppliers have demonstrated an ability to meet the

requirements of the buyer. The buyer may also help identify the suppliers allowed to

participate in the auction. A winning supplier is chosen and the suppliers receive

feedback regarding the RFQ process to help improve the RFQ process between the

buyers and suppliers. (As an example see Li, [0004] [0005] [0006]; and Scott, abstract,

[0057] [0058] [0059] [0060])

   Although, Li is not explicit in its teachings of presenting bid results to the buyer

for selection of a winning bid from among the suppliers, Li does suggest that it is

preferred for buyers to select the supplier(s) that represent the optimal award in the

satisfaction of the buyer's procurement requirements. Scott teaches presenting bid

results to the buyer for selection of a winning bid from among the suppliers. In Scott,

the process of selecting the winning bidder also requires the evaluation of what is

optimal for the buyer. Scott suggests, for example, that just looking at the lowest bid is

not enough because when other considerations (e.g., additional services needed by the

buyer or quality) that may be important to the buyer are factored in, the lowest bid may

not be optimal. One of ordinary skill in the art at the time the invention was made would

have been motivated to modify the teachings of Li by adopting the teachings of Scott.

One would have been motivated to aid in buyer decision-making by presenting all of the

results. A user-friendly presentation of the results improves customer goodwill and

makes for a more efficient and streamlined processing of information. In other words,

presenting buyers with all the bids makes it easier for the buyers to compare and

evaluate the bid information provided by the auction system and makes it easier to

determine which of the winning bid(s) is optimal from their perspective. (As an example

see Li, abstract); and Scott, abstract, [0057] [0058] [0059] [0060])

Re Claims 1,17 and 30

Applicant argues the prior art fails to explicitly disclose, " packaging the

requirement information into a bid/auction presentation for the predetermined

transaction, *wherein* the packaging comprises generating a bid/auction presentation in a

standardized format including *at least one of* descriptions, specifications, technical

parameters, deadlines, and static and interactive graphical renderings with respect to

the predetermined transaction;"

Li recites:

> In **a conventional method for acquiring items, a buyer opens a reverse auction**, hereafter referred to as an auction, by **distributing a "request-for quotation," or RFQ, to prospective suppliers.** The RFQ contains a list of what items the buyer would like to purchase. In some cases, **the RFQ contains additional information pertinent to the proposed transaction, such as minimum or maximum quantities, delivery dates or standards of quality. The RFQ can thus be viewed as a collection of constraints imposed by the buyer** on a proposed transaction. (Li, [0004])

> The auction process begins, as shown in Fig. 2, with the buyer providing an RFQ to the server 12 (step 30). The RFQ includes a detailed specification of what the buyer intends to purchase, together with whatever other transaction terms would be required by the buyer in a prospective transaction with a supplier. **The data in the RFQ thus defines a set of buyer constraints that are provided to the auction management software 18, and ultimately, to the suppliers. These buyer constraints include those that must me made known to the suppliers in order for the suppliers to formulate a bid. Because they are published to the suppliers, these buyer constraints are public buyer constraints.** (Li, [0057)

Li teaches the packaging of requirement information because this is the essence

of what a request for quote (RFQ) is. In other words, a RFQ by nature comprises a

group or bundle of requirements related to product(s) and/or service(s) requested by a

party (e.g., buyer, seller/supplier). In Li, these features are illustrated by the numerous

references to the "request-for-quotation" or "RFQ". In Li, the requirements of the RFQ

are represented by the "buyer constraints." (As an example, see paragraphs [0004] and

[0057] above)

Li further teaches that the RFQ is placed into a bid/auction presentation. Li is

directed to a reverse auction in which buyers are presenting their RFQs to a plurality of

sellers/suppliers. In other words, Li teaches that the RFQ and it's corresponding buyer

constraints are "published to the supplier." "Publishing" something is the same as

producing and presenting it publicly. In response, the sellers/suppliers formulate and submit a bid. (As an example, see paragraphs [0004] and [0057] above).

Li further teaches that the presentation occurs in a standard format. A standard format is a format that can serve as a basis for comparison. As discussed supra, each RFQ comprises requirements called buyer constraints. The buyer constraints and their relative importance to a buyer are indicated by the buyer. Thus, the buyer is able to compare the suppliers on their ability to satisfy the RFQ. (As an example, see paragraphs [0004] and [0057] above).

A standard format is an inherent part of the RFQ process. In other words, the purpose of the RFQ process could not be achieved without a measurable way to compare competing bids.

In Li, the bids that are formulated by the suppliers are in response to the RFQ from the buyer. Formulating a bid is the same as expressing the bid in a precise, systematic and standard form. In other words, what happens in Li is that the buyer needs to clearly present to the suppliers' a format for the RFQ and the corresponding buyer constraints that will serve as the basis for comparing the bids. The suppliers' responding bids must also correllate to that format. (As an example, see paragraphs [0004] and [0057] above).

Li further teaches that the standardized format includes at least one of descriptions, specifications, technical parameters, deadlines, and static and interactive graphical renderings with respect to the predetermined transaction. The Li reference suggests that the buyer constraints for a RFQ can relate to a variety of things important

to the buyer such as minimum/maximum quantities, delivery dates or standards of

quality. (As an example, see paragraphs [0004] and [0057] above).

Re Claims 9,27 and 47

Applicant argues the prior art fails to explicitly disclose, "*wherein*, prior to the step

of moderating an auction, a step is provided for soliciting a closed bid from each of the

plurality of sellers, *wherein* the solicited closed bids establish an opening auction

bidding level prior to the predetermined auction interval."

Li recites:

**Finally, the RFQ specifies whether the auction is to be a sealed auction, in
which case suppliers do not have access to bids made by other suppliers,**
or a Dutch auction, in which case they do (Li, [0102]).

Li teaches soliciting a closed bid from each of a plurality of sellers. Li refers to a

"sealed auction" which is a type of auction in which bidders submit bids to the

auctioneer without knowing the bids of other participants. Thus, a "sealed auction" by

definition is an auction that would receive closed bids from each of a plurality of sellers.

Inherently, Li provides wherein the solicited closed bids establish an opening

auction bidding level prior to the predetermined auction interval. In other words, the

bids submitted will create the required floor or benchmark (i.e., opening auction bidding

level) that is necessary to successfully win the auction. Irrespective of the type of

sealed auction (i.e., first price, second price), the solicited closed bids establish an

opening auction bidding level. In other words, the required floor or benchmark is

determined by looking at all the bids submitted from the sellers/suppliers during the

closed bidding period. In a first price auction the best bid is taken, in a second price

auction the second best bid is taken. Nevertheless, in both situations it is the group of

solicited closed bids that are used to make the determination of what the opening

auction bidding level will be. (As an example, see paragraphs [0102] above).

Re Claims 20 and 33

Applicant argues the prior art fails to explicitly disclose, "wherein the step of

receiving required information comprises electronically receiving the information from

input fields on a web page for submitting information on *at least one of*: specifications,

technical parameters, and deadlines with respect to the predetermined transaction."

Li recites:

**In a conventional method for acquiring items, a buyer opens a reverse
auction**, hereafter referred to as an auction, by **distributing a "request-for
quotation," or RFQ, to prospective suppliers.** The RFQ contains a list of what
items the buyer would like to purchase. In some cases, **the RFQ contains
additional information pertinent to the proposed transaction, such as
minimum or maximum quantities, delivery dates or standards of quality.
The RFQ can thus be viewed as a collection of constraints imposed by the
buyer** on a proposed transaction. (Li, [0004])

The auction process begins, as shown in Fig. 2, **with the buyer providing an
RFQ to the server 12 (step 30). The RFQ includes a detailed specification
of what the buyer intends to purchase, together with whatever other
transaction terms would be required by the buyer in a prospective
transaction with a supplier.** The data in the RFQ thus defines a set of buyer
constraints that are provided to the auction management software 18, and
ultimately, to the suppliers. These buyer constraints include those that must me
made known to the suppliers in order for the suppliers to formulate a bid.
Because they are published to the suppliers, these buyer constraints are public
buyer constraints. (Li, [0057)

The buyer can specify additional **buyer constraints that will ultimately be
communicated to the supplier on a dynamically generated web page.**
Examples of such additional buyer constraints include: **a minimum or
maximum quantity bid for a logical item, a preferred delivery date, and a**

reserved price, which is the maximum price the buyer is willing to pay and a historical price. (Li, [0100])

Li teaches electronically receiving the information from input fields on a web page for submitting information on at least one of: specifications, technical parameters, and deadlines with respect to the predetermined transaction. As discussed supra, the requirements of the RFQ are represented by the "buyer constraints." Li clearly teaches receiving buyer constraints such as minimum or maximum quantities, delivery dates or standards of quality. Review of the Li reference as a whole clearly demonstrates that this as well as other steps are implemented in an electronic environment. For example, the Li reference discusses the fact that the steps are performed over a computer network/Internet, how the buyers constraints are received from the buyers machine., and several figures demonstrate various web pages for use by the buyers and/or sellers/suppliers in the entry of information. (As an example, see [0004] [0057] and [0100] above).

In response to applicants argument, that it is novel to receive the requirements or required information as input fields on a web page. Broadly providing automatic or mechanical means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art. *In re Venner*, 120 USPQ 192 (CCPA 1958) *In re Rundell*, 9 USPQ 220.

Re Claim 44

Applicant argues the prior art fails to explicitly disclose, " packaging the requirement information into a bid/auction presentation for the predetermined transaction."

See response to arguments supra, <u>Re Claims 1,17,30</u>. This limitation was rejected under the same rationale.

Applicant argues the prior art fails to explicitly disclose, " selecting a plurality of sellers to each respectively provide at least one competitive bid for the predetermined transaction, *wherein* the sellers are selected from an appropriate category of a membership database of sellers *so as* to match buyer requirement information with appropriate seller expertise."

Li recites:

The buyer also provides auction management software 18 with procedural data relating to the management of the auction. Such procedural data includes times for opening and closing the auction as well as **criteria for selecting those suppliers that will be invited to bid.** (Li, [0058])

The auction management software 18 executing at the server 12 opens the auction by **publishing the details of the RFQ to selected suppliers** at the time specified by the buyer (step 32). During the course of an auction interval specified by the buyer, **one or more suppliers respond to the RFQ by submitting bids (step 34). These bids represent constraints imposed by the supplier on a proposed transaction between the supplier and the buyer.** The auction management software screens these bids to discard those presenting supplier constraints that are inconsistent with the constraints specified by the buyer (step 36). The remaining bids are then forwarded to the buyer. (Li, [0059])

As can clearly be seen above, Li teaches selecting a plurality of sellers to each respectively provide at least one competitive bid for the predetermined transaction.

(As an example, see paragraphs [0058] and [0059] above)

Scott recites:

In block 214, the buyers and one or more pole personnel identify suppliers for participating in the auction. **The most obvious suppliers are those that have already been "qualified" to supply the items being auctioned......"** (Scott, [0041]).

In general, **approving a supplier is a process of audits (financial, legal, ethical, etc.) conducted to determine whether the supplier is an entity capable of supplying items** for the organization, and whether it conforms to all relevant laws, ethics and financial practices required by the organization conducting the auction (Scott, [0043]).

Scott teaches selecting sellers from an appropriate category of a membership database of sellers so as to match buyer requirement information with appropriate seller expertise. In Scott, the sellers/suppliers are selected from categories such as those that have been "qualified" or "approved." The use of "qualified" or "approved" sellers also accomplishes the desired result of matching buyer requirement information with seller expertise. As described in the Scott reference, "qualified" sellers/suppliers are those that have previously demonstrated an ability to supply and/or manufacture the items requested in the buyer's RFQ. As described in the Scott reference, "Approval" is the process undergone to determine if the seller/supplier is capable of supplying the items requested in the buyer's RFQ. (As an example, see paragraphs [0041] and [0043] above)

"Appropriate" is a relative term and the Applicant has not provided a standard for it's meaning in the claims. The passage in the Specification cited by the Applicant also fails to define what this term means. Thus, the term "appropriate" has been interpreted as suitable for or fitting for a particular purpose, person or occasion.

The claims were given the broadest reasonable interpretation consistent with

MPEP § 2111.

The MPEP states:

If more than one extrinsic definition is consistent with the use of the words in the
intrinsic record, the claim terms may be construed to encompass all consistent
meanings. See e.g., *Rexnord Corp. v. Laitram Corp.* 274 F.3d 1336, 1342, 60
USPQ 185: 1854. See MPEP §2111.01 III.

The definition provided for the term "appropriate" would be reasonable to one of

ordinary skill in the art.

Re Claim 45

Applicant argues the prior art fails to explicitly disclose, " packaging the

requirement information into a bid/auction presentation for the predetermined

transaction."

See discussion supra, <u>Re Claims 1,17,30</u>. This limitation was rejected under the

same rationale.

Applicant argues the prior art fails to explicitly disclose, "soliciting feedback *so as*

to enable the sellers to provide comments with *at least one of* requesting more

information and proposing alternatives to the requirement information specified in the

auction presentation, *wherein* the comments obtained are made available to all

of the respective plurality of sellers, and *wherein* the step of soliciting feedback is

repeated to enable the sellers to provide further comments on each other's comments."

Li recites:

Having received responses from the suppliers, the buyer now has an opportunity
to negotiate with individual suppliers (step 38). **The auction management**

software facilitates such negotiations by providing a messaging function for communicating directly with those persons that have the authority to enter such negotiation. Any adjustments to either the public buyer constraints or the supplier constraints are then provided to the auction management software 18 (step 40). (Li, [0060])

Li teaches soliciting feedback so as to enable the sellers to provide comments with at least one of requesting more information and proposing alternatives to the requirement information specified in the auction presentation, wherein the comments obtained are made available to all of the respective plurality of sellers, and wherein the step of soliciting feedback is repeated to enable the sellers to provide further comments on each other's comments. A negotiation is the mutual discussion and arrangement of the terms of transaction or agreement between one or more parties. Li discloses a negotiation involving a buyer and one or more sellers. Discussions that occur during a negotiation can involve a back and forth exchange of information, the solicitation of feedback etc. but it ultimately results in the development of the terms of the transaction or agreement. In Li this development process is called "adjustments" and in the claimed invention it is called "proposed alternatives." (As an example, see [0060] above)

KSR

Claims 1-4, 6-20,23-33,36-42,44 and 45 recite combinations which only unites old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under KSR. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

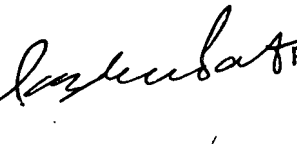Sara Chandler

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